

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PRINCE L. SPELLMAN,

Defendant.

8:21-CR-136

ORDER ON MOTION TO RECONSIDER

This matter is before the Court on defendant Prince L. Spellman’s *pro se* Motion to Reconsider. [Filing 224](#). Spellman asks this Court to reconsider its denial of his previous Motion to Modify and Correct the Record under Federal Rule of Appellate Procedure 10(e). [Filing 222](#); [Filing 223](#). In his previous Motion, Spellman claimed that Exhibit 104 of the index of evidence following the transcript of his suppression hearing was incorrectly titled “911 Incident Detailed Report” rather than “NCJIS Plate Search History.” [Filing 222 at 2](#). In its order denying this Motion, the Court explained that Rule 10(e) applied to “material” omissions and misstatements in the record. [Filing 223 at 1](#); *see Fed. R. App. 10(e)(2)(B)*. The Court noted that, in the transcript of Spellman’s suppression hearing, Exhibit 104 was identified both as the “911 incident detail report” and “NCJIS plate history.” [Filing 223 at 2](#) (citing [Filing 60 at 7](#), 43). The Court concluded that “how exactly Exhibit 104 is titled in the index is of no consequence to Spellman’s appeal.” [Filing 223 at 2](#).

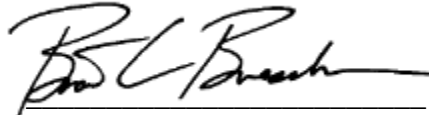
In his Motion to Reconsider that ruling, Spellman emphasizes his theory that the officers responding to the shots-fired incident in Omaha, Nebraska, never ran the plates of the vehicle he was found driving the next day. [Filing 224 at 2–3](#). Spellman contends that Exhibit 104 helps prove that his theory is correct. [Filing 224 at 2–3](#). Again, regardless of if that is true or not, how Exhibit

104 happens to be titled in an index has nothing to do with Spellman's arguments on appeal. *See Fed. R. App. P. 10* (e)(2)(B) (noting that corrections can be made when "anything *material* to either party is omitted or misstated in the record" (emphasis added)); *see also Nevins v. United States*, 29 F.3d 633 (9th Cir. 1994) (unpublished) (denying a Rule 10(e) motion when the errors were "only typographical errors, misnumbered pages, duplicative pages, miscaptioned pages, and [] the transcript lack[ing] an index"). Exhibit 104 is with the Eighth Circuit Court of Appeals, and that court's review of Exhibit 104 and Spellman's appeal is not dictated by the name given to an exhibit by an index. Motions for reconsideration are limited to correcting "manifest errors of law or fact" or presenting "newly discovered evidence." *See United States v. Luger*, 837 F.3d 870, 875 (8th Cir. 2016). Spellman makes neither showing. Accordingly,

IT IS ORDERED that Prince L. Spellman's Motion to Reconsider, [Filing 224](#), is denied.

Dated this 30th day of June, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge